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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/915,570	07/27/2001	Wesley Wilkinson	1674/43755CO	9318

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EXAMINER

BOTTORFF, CHRISTOPHER

ART UNIT PAPER NUMBER

3618

DATE MAILED: 06/21/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.  
09/915,570

Applicant(s)  
Wesley Wilkinson

Examiner  
Christopher Bottorff

Art Unit  
3618



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Jul 27, 2001
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 21-47 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 21-47 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirements.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on Jul 27, 2001 is/are a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 4 6) ☐ Other: \_\_\_\_\_

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### DETAILED ACTION

1. The preliminary amendment filed July 27, 2001 has been entered. Claims 1-20 have been canceled. Claims 21-47 have been added and represent the pending claims.

#### *Priority*

2. It is noted that this application appears to claim subject matter disclosed in prior copending Application No. 08/945,017, filed October 27, 1997. A reference to the prior application must be inserted as the first sentence of the specification of this application or in an application data sheet (37 CFR 1.76), if applicant intends to rely on the filing date of the prior application under 35 U.S.C. 119(e) or 120. See 37 CFR 1.78(a). Also, the current status of all nonprovisional parent applications referenced should be included.

If the application is a utility or plant application filed on or after November 29, 2000, any claim for priority must be made during the pendency of the application and within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior application. See 37 CFR 1.78(a)(2) and (a)(5). This time period is not extendable and a failure to submit the reference required by 35 U.S.C. 119(e) and/or 120, where applicable, within this time period is considered a waiver of any benefit of such prior application(s) under 35 U.S.C. 119(e), 120, 121 and 365(c). A priority claim filed after the required time period may be accepted if it is accompanied by a grantable petition to accept an unintentionally delayed claim for priority under 35 U.S.C. 119(e), 120, 121 and 365(c). The petition must be accompanied by (1) a

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surcharge under 37 CFR 1.17(t), and (2) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2) or (a)(5) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional. The petition should be directed to the Office of Petitions, Box DAC, Assistant Commissioner for Patents, Washington, DC 20231.

***Information Disclosure Statement***

3. The information disclosure statement submitted on August 15, 2001 has been considered by the examiner.

***Drawings***

4. This application has been filed with informal drawings which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed.

***Specification***

5. Applicant is reminded of the proper language and format for an abstract of the disclosure. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details. Note the use of the term "means" on lines 4 and 6.

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*Claim Rejections - 35 USC § 102*

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

7. Claims 21-47 are rejected under 35 U.S.C. 102(e) as being anticipated by Fullenkamp et al. US 5,348,326.

Fullenkamp et al. discloses a trolley with a control wheel assembly having a longitudinal axis of travel and an array of four castors that are disposed at the corners of the trolley. See figures 4-6 and column 2, lines 3-46. The assembly includes a fixed wheel 44, and a second wheel 46, both positioned in a region where the load center of the trolley and the center of the array of castors coincide. Moreover, the principle of placing a control wheel where the load center of the trolley and the center of the array of castors coincide is well established in the art, and further examples are provided in the art of record. The fixed wheel rotates about a horizontal axis but cannot rotate about a vertical axis. Also, a biasing and damping means, in the form of a gas strut,

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is provided with each fixed wheel. Note column 2, lines 29-31. The biasing force of the biasing and damping means is independent of the load on the trolley and the force of the bias means does not exceed the weight of an empty trolley. A lifting means is provided for lifting the fixed wheel out of contact with the ground.

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 21-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lloyd in view of the admitted prior art.

Lloyd discloses a trolley with a control wheel assembly having a longitudinal axis of travel and an array of four castors that are disposed at the corners of the trolley (see figure 1). The assembly includes a fixed wheel 34 positioned in a region where the load center of the trolley and the center of the array of castors coincide. The fixed wheel rotates about a horizontal axis 35 but cannot rotate about a vertical axis (see figure 3 and page 4, lines 27-28). A strut assembly is provided having a first part 36 connected to a member which rotatably supports the fixed wheel at axis 35 and a second part 39 which is fixed in use to the trolley (see figure 3). Also, a biasing and damping means 43 is provided with the fixed wheel, and in that the fixed wheel and biasing and

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damping means are centrally located, the biasing and damping means has a castor wheel on each side. The biasing force of the biasing and damping means is independent of the load on the trolley and the force of the bias means does not exceed the weight of an empty trolley (see figure 1 and page 5, lines 1-5). A lifting means 48 is provided for lifting the fixed wheel out of contact with the ground (see figure 3 and page 3, lines 6-10).

In addition, providing a plurality of fixed wheels that each have a biasing and damping means represents an obvious duplication of parts and is taught by Lloyd (see page 9, lines 22-24). It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a plurality of fixed wheels, each with damping and biasing means, in order to improve the degree of control in the trolley. However, Lloyd lacks a self-contained gas strut.

In the interviews conducted on May 16, 2000 and August 2, 2000, Applicant admitted that the claimed self-contained gas strut was a prior art design of the type demonstrated in the interviews and described in the Stabilus Gas Springs Technical Information publication. It would have been obvious to one of ordinary skill in the art at the time the invention was made to replace the spring of Lloyd with the admitted prior art gas strut in order to provide counterbalance and force assistance to the fixed wheel.

#### ***Remarks***

10. The declarations filed in the present application were addressed in the parent application 08/945,017. As stated in the parent application, these declarations failed to overcome the finding

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of obviousness. Moreover, the issues of obviousness raised by the combination of Lloyd in view of the admitted prior art are moot in light of the disclosure of Fullenkamp et al. Also, Fullenkamp et al. is relevant to Applicant's patent US 6,331,009.

### *Conclusion*

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Bown, Kurowski, Taylor, Stryker, Thorpe, McKinnon, Williams, Upton et al., Bleicher, and Kadowaki disclose trolley control wheel assemblies. Katsumori, Schnitzius, Sano et al., Finch et al., and Haymehko disclose gas strut for wheel assemblies.

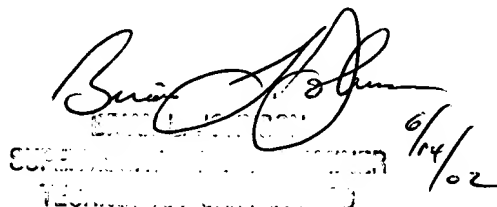
12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher Bottorff whose telephone number is (703) 308-2183. The examiner can normally be reached on Monday through Friday from 7:30 a.m. to 4:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Johnson, can be reached at (703) 308-0885. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-7687.



Christopher Bottorff

June 13, 2002



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